IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11219 of 2004

Between:

Balgonda, S/o. Balgonda,
District Rural Development Agency, Nizamabad.

..... PETITIONER

AND

The Project Director District Rural Development Agency, APRPRP, NIZAMABAD.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more in the nature of Mandamus declaring the impugned Proc. No. RD 4/40/2004, dated 6-2-2004 issued by the Project Director, District Rural Development Agency, Nizamabad as illegal, arbitrary, unjust and oppoed to all principles of natural justice, equity and fair play and contrary to provisions of A.P. Cooperative Societies Act and pass

Counsel for the Petitioner:MR.D.LINGA RAO

Counsel for the Respondent : Govt. Pleader for Panchayat Raj

The Court made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 11219 of 2004

O R D E R:

Questioning the suspension order dated 6.2.2004 issued by the Project Director, District Rural Development Agency (DRDA), Nizamabad in Proc.No.4/40/2004, the petitioner filed the present writ petition.

At the request of both the learned counsel for the parties, the main writ petition itself is taken up for disposal.

The case of the petitioner is that the proceedings dated 6.2.2004 are clearly untenable in the eye of law and the alleged lapses said to have been committed in the capacity of the President of the Society have no nexus with regard to the official work attached to the post of Record Assistant and it is the Registrar of Cooperative Societies who has to take appropriate action, and the suspension order on the basis of the letter of the Manager of a bank is illegal and as it is outside the jurisdiction of the respondents. If any lapses are said to have been committed in the capacity of the President of the Society, the bank is required to refer the same to the competent authority to enquire into the matter under Section 51 of the A.P. Cooperative Societies Act. Hence the petitioner prays to set aside the impugned proceedings.

It is vehemently contended by the learned counsel for the petitioner that the Project Director who issued the impugned proceedings has no authority to place the petitioner under suspension because the allegation of misappropriation of the society's funds is nothing to do with regard to the discharge of official work attached to the post of Record Assistant. Therefore, the order suffers from serious legal infirmities. Hence, he prays to set aside the impugned proceedings.

On the other hand, the learned Government Pleader

appearing for the respondents contended that under Civil Service Conduct Rules though there is no nexus between the irregularities in the capacity as the President of the Society and the official work, even then the appointing authority/disciplinary authority can place an employee under suspension and therefore he prays to dismiss the writ petition.

The petitioner is an elected President of the District Rural Development Agency Employees Cooperative Credit Society Limited, Nizamabad. The Project Director of the DRDA by his proceedings dated 6.2.2004 placed the petitioner under suspension pending enquiry in exercise of the powers conferred under C.C.A. Rules, 1991. Questioning the same, the present writ petition is filed.

The allegation against the petitioner is that as the President of DRDA Employees Cooperative Credit Society he misappropriated the funds of the society. There is no dispute that the Project Director who issued the impugned proceedings is the appointing authority/disciplinary authority in respect of the employees of the DRDA. The petitioner is working as a Record Assistant in the said agency. He was the elected President of the Employees Society. The contention of the learned counsel for the petitioner is that since it is an independent body, if any irregularities are found, the bank has to report to the Cooperative Department who in turn make an enquiry as contemplated u/Sec. 51 of the A.P. Cooperative Societies Act and the functions of the President are nothing to do with the duties assigned to the petitioner as Record Assistant and hence the impugned proceedings are totally without jurisdiction and liable to be quashed.

On the other hand, learned Government Pleader contended that even though the allegations levelled against the petitioner do not relate to discharge of official duties, still the appointing authority/disciplinary authority can place an officer under suspension under the relevant Rules. Learned counsel for the petitioner relied upon a decision of this court in **Special Category Dy.**

Registrar/District Co-op. Officer v. N. Gavariah, wherein it is held:

> "Sections 51 and 59(1) of the said Act, in our considered opinion, must be read conjointly. So read, there cannot be any doubt whatsoever that an order of suspension can only be passed only in relation to a paid officer or servant of a society in relation whereto, upon an enquiry, a prima facie satisfaction can be arrived at by the Registrar that it is necessary in the interest of the society to direct the Committee, pending investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension. "Committee" has been defined in Section 2(b) of the said Act to mean the governing body of a society by whatever name called, to which the management of the affairs of the society is entrusted. It is, therefore, clear that the direction to place employees of a society under suspension can only be issued upon the committee of the said society itself. If no enquiry had been pending against the Bank, only because the statutory authority has come to a conclusion that its employees are also involved in the matter, the same ipso facto would not attract the provisions of Section 59(1), of the said Act. The order of suspension involves civil or evil consequences. In that view of the matter, apart from the fact that literal reading of the statute does not permit any other construction, the same should also required to be construed strictly".

There is no doubt about the proposition of law laid down in the above decision. When an officer or servant of the cooperative society commits misappropriation, breach of trust or other offence, the Registrar can ask the committee to place the employee under suspension from such date and time as may be specified. In this case the Registrar of the Cooperative Societies did not pass any order. The appointing authority/the disciplinary authority of writ petitioner passed the impugned order. The short point for

consideration is whether the Project Director who is nothing to do with the affairs of the DRDA Employees Cooperative Credit Society can place an employee under suspension?

It is not in dispute that the petitioner has not committed any irregularities or misconduct in discharge of his official duties as a Record Assistant in DRDA. Rule 8(1) of A.P. Civil Services (Classification, Control & Appeal) Rules, 1991 is the answer to the above point, which reads " a government servant may be placed under suspension from service even if the offence for which he was charged does not have any bearing on the discharge of his official duties". It is not in dispute that the Project Director is the competent authority to place an employee of DRDA under suspension. The above Rule makes it clear that even though the charges do not have any bearing on the discharge of official duties of the government servant, he can be placed under suspension. So, by exercising the said provision, the Project Director passed the impugned proceedings. The impugned proceedings do not suffer from any legal infirmities.

Learned counsel for the petitioner has also taken a plea that the competent authority has not applied its independent mind in arriving at the conclusion and the vague information cannot be the basis for disciplinary proceedings. This court is unable to accept the same, because it is clearly mentioned in the impugned proceedings that the employees of the cooperative society of DRDA made a representation to the Project Director stating that the petitioner herein misappropriated the amount of Rs.10.00 lakhs and basing on the information received by him with regard to the benami loan transaction and criminal breach of trust relating to the funds of the society, he was placed under suspension. So, the Project Director has applied his mind properly before passing the impugned proceedings and as such the impugned proceedings do not suffer from any legal infirmities.

The writ petition lacks any merit and it is accordingly

dismissed.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Dt. 16–07—2004.

MVB**.**

To

1. The Project Director District Rural Development Agency, APRPRP, NIZAMABAD.
2. 2 CCs to the Govt. Pleader for Panchayat Raj (OUT).
3. 2 CD copies